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March 21, 2015

*VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED*

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| Pick-n-Pull Auto Dismantlers<br>516A Dolan Road<br>Moss Landing, CA 95039   | Pick-n-Pull Auto Dismantlers<br>516B Dolan Road<br>Moss Landing, CA 95039   |
| Pick-n-Pull<br>10850 Gold Center Drive, Suite 325<br>Rancho Cordova, California 95670   | Pick-n-Pull Auto Dismantlers, LLC<br>3200 NW Yeon<br>Portland, OR 97210   |
| Schnitzer Steel Industries, Inc.<br>299 SW Clay Street, Suite 350<br>Portland, OR 97201   | Tamara Lundgren, CEO<br>Schnitzer Steel Industries, Inc.<br>299 SW Clay Street, Suite 350<br>Portland, OR 97201                             |
| Patrick Hultin, Site Manager<br>Pick-n-Pull Auto Dismantlers<br>516A Dolan Road<br>Moss Landing, CA 95039                                     | Patrick Hultin, Site Manager<br>Pick-n-Pull Auto Dismantlers<br>516B Dolan Road<br>Moss Landing, CA 95039                                   |
| C T Corporation System<br>Registered Agent for Pick-n-Pull Auto<br>Dismantlers, LLC.<br>818 W Seventh Street<br>Los Angeles, California 90017 | C T Corporation System<br>Registered Agent for Schnitzer Steel<br>Industries, Inc.<br>818 W Seventh Street<br>Los Angeles, California 90017 |

Re: Notice of Clean Water Act Violations and Intent to File Suit

Dear Sirs & Madam:

I am writing on behalf of Ecological Rights Foundation ("ERF") to give notice that ERF intends to file a civil action against Pick-n-Pull Auto and Truck Dismantlers and Schnitzer Steel Industries, Inc.; Tamara Lundgren, CEO of Schnitzer Steel Industries and Patrick Hultin, Site

Manager for Pick-n-Pull Moss Landing (hereinafter collectively "You," "Your" or "Pick-n-Pull") for Your violations of the Clean Water Act ("CWA") at the Pick-n-Pull Moss Landing Facility located in Moss Landing, California ("the Pick-n-Pull Facility" or "the Facility").

On information and belief, Pick-n-Pull Auto and Truck Dismantlers is a subsidiary of Schnitzer Steel Industries, Inc. ("Schnitzer"). Pick-n-Pull Auto and Truck Dismantlers and Schnitzer have worked together since 1989, and Pick-n-Pull Auto and Truck Dismantlers became a fully owned subsidiary of Schnitzer in 2003 as part of its Auto Parts Business unit. However, if and to the extent that Pick-n-Pull Auto and Truck Dismantlers or any other entity named similarly to "Pick-n-Pull" remains a separate legal entity from Schnitzer, such entities are included within the definition of You," "Your" or "Pick-n-Pull" for purposes of this notice letter.

This notice concerns Your violations of the CWA at Your Pick-n-Pull auto dismantling facility located in Moss Landing, California. Your Storm Water Pollution Prevention Plans indicates the address of this facility is 516 A & 516 B Dolan Road, Moss Landing, California ("the Facility") (the Facility is physically located on a side street off of Dolan Road known as Via Tanques Road). See Storm Water Pollution Prevention Plan (SWPPP) Pick-N-Pull Moss Landing Premier-Store #48, WDID No. 3 271023349 , Revised: November 2014 ("516 A SWPPP"); Storm Water Pollution Prevention Plan (SWPPP) Pick-N-Pull Moss Landing - Store #42, WDID No. 3 271010373, Revised: November 2014 ("516 B SWPPP").<sup>1</sup> This letter addresses Your violations of the substantive and procedural requirements of the CWA and National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001 [California State Water Resources Control Board] Water Quality Order No. 97-03-DWQ ("Industrial Stormwater Permit"). This letter further addresses Your violations of the predecessor version of the Industrial Stormwater Permit Issued by the California State Water Resources Control Board ("State Board") by Water Quality Order No. 91-013-DWQ (as amended by Order No. 92-116) in 1991/1992 and Your foreseeable violations of the version of Industrial Stormwater Permit issued on April 1, 2014 by State Board Water Quality Order No. 2014-0057-DWQ. All three of these versions of NPDES Permit No. CAS000001 had/have essentially the same terms and conditions. All references in this letter to sections of the version of NPDES Permit No. CAS000001 adopted by Water Quality Order No. 97-03-DWQ should be construed as equally referring to comparable sections in the State Board's orders adopting the 1992 and 2014 versions of this permit.<sup>2</sup>

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<sup>1</sup> The 516 A SWPPP and 516 B SWPPP include site maps that further identify and depict the location of the Facility.

<sup>2</sup> The version of NPDES Permit No. CAS000001 adopted by Water Quality Order No. 2014-0057-DWQ becomes effective July 1, 2015 and supersedes the version of this permit adopted by Water Quality Order No. 97-03-DWQ "except for Order 97-03-DWQ's requirement to submit annual reports by July 1, 2015 and except for enforcement purposes." Water Quality Order No. 2014-0057-DWQ at 1 & § I.6 (Findings). Thus, all requirements imposed by Water Quality Order No. 97-03-DWQ will remain in full force and effect after July 1, 2015 for purposes of the

CWA section 505(b) requires that sixty (60) days prior to the initiation of a civil action under CWA section 505(a), 33 U.S.C. § 1365(a), a citizen must give notice of his or her intent to file suit. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency, and the State in which the violations occur.

As required by the CWA, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred and which are continuing to occur at the Pick-n-Pull Facility. ERF's investigations have uncovered significant violations of the Industrial Stormwater Permit and the CWA at the Facility. Consequently, You are hereby placed on formal notice from ERF that, after the expiration of sixty (60) days from the date of this Notice of Violation and Intent To File Suit, ERF intends to file suit in federal court against You under CWA section 505(a), 33 U.S.C. §1365(a), for CWA violations. These violations of the Industrial Stormwater Permit and the CWA are described more fully below.

## **I. BACKGROUND**

ERF is a non-profit public benefit corporation organized under the laws of California, with its main office in Garberville, California. ERF's purpose is to educate the public about environmental practices which cause harm to human health, the environment and other natural resources, and to seek redress from those harms through litigation or alternative dispute resolution. ERF represents citizens in protecting California's waterways from pollution, securing the multitude of benefits that flow from clean, vibrant waters: safe drinking water, abundant and diverse wildlife populations, healthy recreational opportunities, and economic prosperity from commercial fishing, tourism, and other commercial activities that depend on clean water. To further its goals, ERF actively seeks federal and state agency implementation of state and federal water quality laws, including the CWA, and as necessary, directly initiates enforcement actions on behalf of itself and its members. ERF's members use and enjoy the waters and species impacted by Your Facility for various recreational, educational, aesthetic and spiritual purposes. These waters include Elkhorn Slough, Moss Landing Harbor, Monterey Bay, and these species include those that reside, breed, and forage in and around those waters.

Discharges of stormwater and non-stormwater from auto dismantling and recycling facilities are of significant concern because the industrial activities associated with these sites make various pollutants particularly accessible to stormwater. Specifically, facilities such as Pick-n-Pull are engaged in the collecting, dismantling, and recycling of auto parts, which contain

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citizen suit that ERF proposes to bring against You. However, the requirements imposed by Water Quality Order No. 2014-0057-DWQ will also come into effect after July 1, 2015 and Your future violations of such Order's imposition of NPDES permit terms essentially identical to those ordered by Water Quality Order No. 97-03-DWQ will also be enforceable in ERF's proposed citizen suit.

heavy metals, a wide range of toxic and hazardous materials, and other pollutants that can come into contact with stormwater.

At Your Facility, vehicles, parts and scrap metal materials are mostly stored uncovered in the outdoor portion of the Facility, primarily in unpaved areas of the Facility. Stormwater comes into contact with these scrap vehicles and parts, scrap materials and the other pollutants at the Facility. The Facility lacks sufficient and/or sufficiently well-maintained berms or other structural controls to retain stormwater on the Facility. Pick-n-Pull does not sufficiently treat contaminated stormwater prior to discharge from the Facility. The large number of trucks and rolling stock entering and leaving the Facility track dirt, metals, and other pollutants off-site and onto Dolan Road where rainfall washes these pollutants into the storm drain system or directly into waters of the United States.

## **II. THE LOCATION OF THE ALLEGED VIOLATIONS**

The violations alleged in this notice letter have occurred and continue to occur at Your Facility which Your annual reports indicate as having the following addresses: 516 A Dolan Road and 516B Dolan Road, Moss Landing, California. The Facility discharges contaminated stormwater through a series of drains and pipes into Elkhorn Slough, which is tidally connected to Monterey Bay. Pick-n-Pull's Notice of Intent to be covered by the Industrial Stormwater Permit ("NOI") for the Facility identifies Elkhorn Slough as the receiving water for its stormwater discharges. Elkhorn Slough is a water of the United States. Violations of the substantive and procedural requirements of the Industrial Stormwater Permit and the CWA have occurred and continue to occur at the Facility.

### **A. Pick-n-Pull's Facility**

You own and operate the Pick-n-Pull Facility, which is located within the Dolan Industrial Park. As noted, the address for the Facility is 516 A and 516 B Dolan Road. The Facility is located northerly of the intersection of Via Tanques Road and Dolan Road, on Via Tanques Road, in the Moss Landing area of northern Monterey County. Dolan Road, a well-used county arterial road, runs east-west to the south of the Park and connects up to Highway 1 at Moss Landing.

You purchase used and salvage vehicles from tow companies, private parties, auto auctions, charities and insurance companies. At the Facility, hundreds of vehicles are stocked at a time and inventory is constantly refreshed to provide customers with a wide selection of vehicles and parts. As vehicles arrive, Pick-n-Pull employees inspect them, allegedly make efforts to remove and recycle vehicle fluids and hazardous materials, and then place the vehicles in the yard on supports where customers can access them. Customers pay an admission fee and bring their own tools to pull the parts themselves. Vehicles are set on customized supports to raise them off the ground to ensure easy access for customers to pull parts. Pick-n-Pull provides

free use of wheelbarrows and engine hoists.

In the process of recycling thousands of vehicles per year, You remove and recycle usable parts from the vehicles. The remaining vehicle hulks are crushed and sold to metal recyclers which process them into sellable recycled metal.

Pick-n-Pull's annual reports filed with the California Regional Water Quality Control Board, San Francisco Bay Region ("Regional Board") indicate that discharges of stormwater from the Facility are consistently contaminated with higher levels of pollutants than permissible under the Industrial Stormwater Permit and that You have therefore failed to develop and/or implement an adequate Stormwater Pollution Prevention Plan ("SWPPP"), Monitoring and Reporting Program ("MRP"), or best management practices ("BMPs") as required by the Industrial Stormwater Permit.

On January 5, 2010, attorney Mark W. Hafen, representing adjacent landowner Loan Exchange Group, LLC, sent a letter to Richard LeWarne, Assistant director of the Hazardous Materials Management Services Division of the Monterey County Environmental Health Department concerning discharges of toxic materials from Your Facility. In his letter, Mr. Hafen alleges that Your Facility failed to properly clean stormwater interceptor buffers, and that his client obtained scientific evidence that the storm runoff from the Facility is toxic. Mr. Hafen claimed that samples collected on his client's behalf establishes that levels of gasoline and diesel semi-solid material are "far beyond acceptable standards." According to Mr. Hafen, he and his client visited the area near what Your 516 B SWPPP identifies as outfall 2 on the northern portion of the part of Your Facility which has the address 516 B Dolan Street. They took photographs of the sludge run off and personally observed that the sludge runoff is contacting the shoreline of the Elkhorn Slough. The results of the samples taken at the direction of Mr. Hafen and his client are summarized in Attachment 2 to this letter (as the "Loan Exchange Results"). As this summary indicates, this sampling effort demonstrated that You were discharging stormwater from Your outfall 2 that contained levels of pollutants exceeding EPA Benchmarks and that cause receiving waters not to meet applicable water quality standards.

### **C. Affected Waters**

Stormwater discharged from Your Facility flows into Elkhorn Slough and then to Monterey Bay. The CWA requires that water bodies like the Elkhorn Slough and Monterey Bay meet water quality objectives which protect specific "beneficial uses." The beneficial uses of the Elkhorn Slough include marine habitat; preservation of rare, threatened, or endangered species; shellfish harvesting; water contact recreation; and non-contact water recreation.

Elkhorn Slough is a truly exceptional ecosystem on the central California coast. The slough harbors California's largest tract of tidal salt marsh outside San Francisco Bay. Elkhorn Slough tidal habitats encompass extraordinary biological diversity, providing critical habitat for

more than 135 aquatic bird, 550 marine invertebrate, and 102 fish species. The Elkhorn Slough is also home for sea lions, harbor seals, and California sea otters. More than 200 different bird species use the slough as a resting spot during their annual migration.

The Elkhorn Slough watershed encompasses tidal wetlands, surrounded by barrier dunes and coastal hillsides. The Elkhorn Slough watershed is an incredibly rich biological area, with over 270 species of resident and migratory birds, and freshwater ponds and riparian wetland areas that support two dozen rare, threatened or endangered species, including peregrine falcons, Santa Cruz long-toed salamander, California red-legged frog, California tiger salamander clapper rails, brown pelicans, least terns and sea otters, among others. Elkhorn Slough is one of the few, relatively undisturbed coastal wetlands remaining in California. The main channel of the slough winds inland nearly seven miles and encompasses over 2,500 acres of marsh and tidal flats. Over 500 species of invertebrates, 100 species of fish, and 270 species of birds have been identified in Elkhorn Slough. The channels and tidal creeks of the slough are nurseries for many fish, including seven commercially important species. Harbor seals and sea otters also make their way through the Moss Landing Harbor to established haul outs in Elkhorn Slough. Additionally, the Slough is on the Pacific Flyway, providing an important feeding and resting ground for many kinds of migrating waterfowl and shorebirds. Various fish species, such as English Sole, top smelt, anchovies, sculpin, and leopard sharks use the Slough as a nursery, and fish can be vulnerable to contaminants. These are important forage fish for birds and other animals, so the impacts of contaminants You discharge are likely reverberating up the food web.

There are a number of important and sensitive species that use the slough in near proximity to the Facility's storm water discharges. Southern sea otters heavily use the wetlands in the general area of the discharge, especially in the nearby Yampah Marsh portion of Elkhorn Slough. This use is new or has dramatically increased since 1995. While back then there were mostly non-resident males in the harbor area, now there are numerous resident otters in the Slough, and the Yampah Marsh area has the highest density of mothers with pups anywhere in the range of this recovering species. Otter pups are particularly susceptible to the harmful effects of bioaccumulative toxic substances. For instance, sea otter mothers often offload contaminants in breast milk when they first give birth and this first pup is thus very vulnerable to high levels of contaminants. Harbor seals also haul out in this general area and are potentially impacted in the same manner as sea otters.

Estuaries like Elkhorn Slough are among the most threatened ecosystems in California, facing rates of habitat loss between 75 and 90 percent. As a result, a disproportionate number of rare, threatened, and endangered species reside in these areas. As noted, in the Elkhorn Slough watershed, two dozen species are included in these categories. Recognizing the value of these resources to the country, the National Oceanic and Atmospheric Administration designated areas of Elkhorn Slough as part of the Monterey Bay National Marine Sanctuary and as a National Estuarine Research Reserve.

The California Department of Fish and Wildlife has also designated parts of Elkhorn Slough as a State Ecological Reserve and as a Wildlife Management Area, as well as designating three marine protected areas: the Elkhorn Slough State Marine Reserve and Conservation Area

and the Moro Cojo State Marine Reserve. The National Audubon Society includes the slough in its Globally Important Bird Areas and the Western Hemisphere Shorebird Reserve Network designated it a Site of Regional Importance.

The California Regional Water Quality Control Board, Region 3's Central Coastal Basin Plan ("Basin Plan") seeks to protect and maintain aquatic ecosystems and the resources those systems provide to society. The Basin Plan acknowledges discharges of urban industrial site stormwater as a potential significant source of pollution adversely affecting the quality of local waters. Contaminated stormwater discharges from Your Facility adversely impact the water quality of the Elkhorn Slough and threaten its vulnerable and important ecosystem.

Contaminated stormwater from metals recycling activities at Your Facility endangers the rare and endangered species and further degrades habitat for all species in the Slough. Elkhorn Slough sediments act as a sink for bioaccumulative deposits of heavy metals, and strong winds and tidal currents continually re-suspend and redeposit these metals. Toxic chemicals are concentrated in the Slough's food web as toxic metals and other contaminants absorbed by plankton are consumed by shellfish, fish and birds farther up the food chain, and eventually by humans. Contamination of the aquatic food chain disproportionately harms minority and poor communities, who typically eat a greater than average amount of fish.

Stormwater runoff from Your Facility contaminated with metals and other pollutants also harms the special aesthetic and recreational significance that the Elkhorn Slough has for people in the surrounding communities. Aquatic sports are very popular in the Monterey Bay Area, and the Elkhorn Slough is heavily used by kayakers, canoers, swimmers, shellfish harvesters, bird watchers, hikers, and recreational and subsistence anglers. The public's high usage of the Slough for water contact sports exposes many people to toxic metals and other contaminants present in Your stormwater runoff. Non-contact recreational and aesthetic opportunities, such as wildlife observation, also are damaged by Your stormwater contaminants discharged to the Slough.

It is unlawful to discharge pollutants to waters of the United States, such as the Elkhorn Slough, without an NPDES permit or in violation of the terms and conditions of an NPDES permit. On August 2, 1993 You submitted a Notice of Intent to be authorized to discharge stormwater from Your Facility by the Industrial Stormwater Permit and thus at all relevant times have been a permittee subject to the Industrial Stormwater Permit's requirements. The Stormwater Industrial Permit is an NPDES permit, the current version of which the State Board issued on April 17, 1997.<sup>3</sup> Other than coverage under the Industrial Stormwater Permit, Your Facility lacks NPDES permit authorization for any wastewater discharges.

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<sup>3</sup> On August 2, 1993, You submitted an NOI to be authorized by the predecessor general stormwater permit also issued by the State Board, containing essentially identical limitations as the current Industrial Stormwater Permit. As noted, all CWA violations referred to in this letter prior to the effective date of the current Industrial Stormwater Permit in 1997 are violations of the similar prior version of the Industrial Stormwater Permit then in effect.

As discussed below, ERF's investigations have uncovered numerous significant violations of the Industrial Stormwater Permit and of the CWA's prohibition on the discharge of pollutants to waters of the United States not in compliance with an NPDES permit. Consequently, You are hereby placed on formal notice from ERF that, after the expiration of sixty (60) days from the date of this Notice of Violation and Intent To File Suit, ERF intends to file suit in federal court against You under CWA section 505(a), 33 U.S.C. § 1365(a), for violations of the CWA.

### **III. THE ACTIVITIES AT THE FACILITY ALLEGED TO CONSTITUTE VIOLATIONS AND THE EFFLUENT LIMITATIONS VIOLATED**

Numerous pollutant-generating activities at Your Facility occur outdoors in uncovered areas exposed to rainfall and stormwater runoff. As a result, contaminated stormwater runs off the Facility from the discharge points identified in Your 516 A SWPPP and 516 B SWPPP and discharges to Elkhorn Slough. Pursuant to the Industrial Stormwater Permit, this contaminated stormwater discharge obligates Pick-n-Pull to develop, implement, and update and revise a SWPPP which minimizes the discharge of pollutants to a level commensurate with application of the Best Available Technology Economically Achievable (BAT) and the Best Conventional Pollutant Control Technology (BCT). In addition, the SWPPP and Your implementation of the SWPPP must prevent Your discharges from causing or contributing to violations of Water Quality Standards for Elkhorn Slough. You must also monitor and sample Your Facility's stormwater discharges, and meet various other limitations on its stormwater discharge.

As further described below, You have failed to develop, implement, and revise an adequate SWPPP. You have discharged stormwater polluted to levels exceeding BAT and BCT levels of control and which have caused violations of Water Quality Standards. You further have failed to adequately monitor and sample Your stormwater discharges and meet various other limitations on Your stormwater discharge in the Industrial Stormwater Permit. These actions all constitute actionable CWA violation.

As a result of the numerous pollutant-generating activities at Your Facility, contaminated stormwater runs off Your Facility and discharges into Elkhorn Slough. Information available to ERF indicates that You have failed to comply with all requirements of the Industrial Stormwater Permit. As further described below, these actions constitute violations of the CWA.

#### **A. Discharges in Violation of the Industrial Stormwater Permit**

The CWA provides that "the discharge of any pollutant by any person shall be unlawful" unless the discharger is in compliance with the terms of a NPDES permit. CWA § 301(a), 33 U.S.C. § 1311(a); *see also* CWA § 402(p), 33 U.S.C. § 1342(p) (requiring NPDES permit issuance for the discharge of stormwater associated with industrial activities). The Facility discharges stormwater associated with industrial activity to the Elkhorn Slough and Monterey Bay which is contaminated with pollutants. The Facility



discharges stormwater pursuant to the Industrial Stormwater Permit, which authorizes these discharges conditioned on the Facility complying with the terms of the Industrial Stormwater Permit. Each of these permit terms constitutes an "effluent limitation" within the meaning of CWA section 505(f), 33 U.S.C. § 1365(f). The Facility's stormwater discharges have violated numerous of these permit terms, thereby violating CWA effluent limitations.

### **1. Discharges in Excess of BAT/BCT Levels**

The Effluent Limitations of the Industrial Stormwater Permit, § B.3, prohibit Your Facility from discharging pollutants above the level commensurate with the application of BAT and BCT. EPA and the State Board have published Benchmark Values set at the maximum level of pollutant loading generally expected if an industrial facility is employing BAT and BCT,<sup>4</sup> (which are set forth in Attachments 1 and 2 to this Notice Letter). As reflected in Attachments 1 and 2 to this Notice Letter, the Facility has repeatedly discharged stormwater from each of the discharge locations ("outfalls") identified in Your 516 A SWPPP and 516 B SWPPP containing pollutant levels exceeding Benchmark Values, which establishes that the Facility has discharged pollutants above a level commensurate with application of BAT and BCT.<sup>5</sup> Attachments 1 and 2 compile some of the self-monitoring data reported by the Facility to the Regional Board reflecting the Facility's sampling of actual stormwater discharges, as well as samples taken by others from the Facility. The sample results reflected in Attachments 1 and 2 are representative of the pollutant levels in the Facility's discharge of stormwater, including such discharges that You did not sample or analyze. Thus, every instance when the Facility has discharged stormwater, including instances when the Facility has discharged stormwater that it has not sampled, this stormwater discharge has contained levels of pollutants comparable to the levels set forth in Attachments 1 and 2.

ERF alleges and puts You on notice that each day that You discharged stormwater from the Facility, Your stormwater contained levels of pollutants similar to the levels reported in Attachments 1 and 2, thus exceeding Benchmark Values.

ERF representatives further observed discharges of stormwater from outfall 2 at the 516 B portion of the Facility on December 3, December 11 and December 15, 2014. On each day, ERF representatives observed very prominent oil sheens in Your stormwater

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<sup>4</sup> These Benchmark Values can be found at [http://www.waterboards.ca.gov/santaana/water\\_issues/programs/stormwater/docs/sbpermit/forms/benchmark\\_usepa\\_multisector.pdf](http://www.waterboards.ca.gov/santaana/water_issues/programs/stormwater/docs/sbpermit/forms/benchmark_usepa_multisector.pdf) and [http://www.waterboards.ca.gov/santaana/water\\_issues/programs/stormwater/docs/sbpermit/forms/benchmark\\_regionalboard.pdf](http://www.waterboards.ca.gov/santaana/water_issues/programs/stormwater/docs/sbpermit/forms/benchmark_regionalboard.pdf).

<sup>5</sup> This provision of the Industrial Stormwater Permit remains the same in the version effective as of July 1, 2015 ("2015 Permit"). *See* 2015 Permit § V.A. ERF hereby places you on notice that ERF intends to bring claims against you for violations of this provision in the July 1, 2015 version of the Industrial Stormwater Permit to the extent that You continue Your present stormwater discharge practices in the future.

discharges from this outfall and detected very strong petroleum hydrocarbon odors in the wastewater. BAT and BCT levels of treatment at the Facility would necessarily be sufficient to prevent the discharge of wastewater containing oils sheens and strong petroleum hydrocarbon odors. Thus, the presence of such sheens and odors in Your stormwater discharges further establishes that You have discharged and are continuing to discharge stormwater that is not treated to a level commensurate with application of BAT and BCT. ERF alleges that the stormwater discharges ERF observed on these two days are representative of Your stormwater discharges generally and thus every day You have discharged stormwater, You have failed to employ BAT and BCT treatment.

While You should be aware of each day that You have discharged stormwater from the Facility (as the Industrial Stormwater Permit requires You to monitor such discharges), ERF alleges and puts You on notice that since You began industrial operations at the Facility, You have discharged stormwater containing pollutants from the Facility to the Elkhorn Slough during at least every significant local rain event over 0.1 inches. Significant local rain events are reflected in the rain gauge data available at <http://cdec.water.ca.gov> and <http://lwf.ncdc.noaa.gov/oa/ncdc.html>. Attached as Attachment 3 is a table reflecting the rainfall data for the past five years, as reported to the Watsonville Regional Airport, the closest monitoring station available on the NOAA website.

ERF further alleges that on each day that You have discharged stormwater You have discharged stormwater that was not treated to a level commensurate with BAT or BCT in violation of the Effluent Limitations of the Industrial Stormwater Permit, § B.3., because, as further alleged in subsection 3, below, You have not developed and implemented a SWPPP that mandates BMPs that are commensurate with BAT and BCT for Your Facility.

ERF alleges that Your unlawful discharges of stormwater from the Facility with levels of pollutants exceeding BAT and BCT levels of control continue to occur presently during all significant rain events. Each discharge of stormwater from Your Facility after the effective date of the BAT and BCT requirements has constituted a separate violation of the Industrial Stormwater Permit and the CWA. You are subject to civil penalties for violations of the Industrial Stormwater Permit and the CWA within the past five (5) years.

Your continued discharges of stormwater containing levels of pollutants above Benchmark Values and BAT- and BCT-based levels of control necessarily means that You have not developed and/or implemented sufficient BMPs<sup>6</sup> at the Facility to prevent

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<sup>6</sup> The July 1, 2015 version of the permit requires dischargers to implement a set of minimum BMPs. Implementation of the minimum BMPs, in combination with any advanced BMPs necessary to reduce or prevent pollutants in industrial stormwater discharges, serve as the basis for compliance with the permit's technology-based effluent limitations and water quality based receiving water limitations. *See* 2015 Permit § X.H.1 and 2.. ERF hereby places you on notice that ERF intends to bring claims against you for violations of this provision in the July 1, 2015 version of the Industrial Stormwater Permit to

stormwater flows from coming into contact with the sources of contaminants at the Facility or otherwise to control the discharge of pollutants from the Facility. Accordingly, Pick-n-Pull has not developed and/or implemented adequate SWPPPs or MRPs at the Facility.

## **2. Discharges that Have Impaired Receiving Waters**

The Discharge Prohibitions of the Industrial Stormwater Permit, ¶ A.2, prohibit stormwater discharges that cause or threaten to cause pollution, contamination, or nuisance. The Discharge Prohibitions of the Industrial Stormwater Permit, ¶ A.2, prohibit stormwater discharges to surface or groundwater that adversely impact human health or the environment. The Receiving Water Limitations of the Industrial Stormwater Permit, ¶ C.2, prohibit stormwater discharges that cause or contribute to an exceedance of applicable Water Quality Standards.<sup>7</sup> Applicable Water Quality Standards are set forth in the Basin Plan<sup>8</sup> and the California Toxics Rule<sup>9</sup> (“CTR”).

The Basin Plan, *inter alia*, establishes the following Water Quality Standards for Elkhorn Slough:

1. Controllable water quality shall conform to the water quality objectives contained therein. Basin Plan at III-2.

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the extent that You continue Your present stormwater discharge practices in the future.

<sup>7</sup> The July 1, 2015 version of this permit contains essentially identical Discharge Prohibitions. *See* 2015 Permit § V. A-C. ERF hereby places you on notice that ERF intends to bring claims against you for violations of these provisions in the July 1, 2015 version of the Industrial Stormwater Permit to the extent that You continue Your present stormwater discharge practices in the future. In addition, the 2015 Permit requires a discharger to monitor additional parameters if the discharge(s) from its facility contributes pollutants to receiving waters that are listed as impaired for those pollutants (CWA section 303(d) listings). *See* 2015 Permit § VI. A-C and VII.B. The receiving waters that are 303(d) listed as impaired for pollutants that are likely to be associated with industrial stormwater in Appendix 3. Elkhorn Slough is among the listed waters impaired for pH, Low Dissolved Oxygen, and Sediment. ERF hereby places you on notice that ERF intends to bring claims against you for violations of this provision in the July 1, 2015 version of the Industrial Stormwater Permit to the extent that You continue Your present stormwater discharge practices, including monitoring practices, in the future. These practices do not include the enhanced monitoring that will be required by the 2015 Permit.

<sup>8</sup> The Basin Plan is published by EPA on the internet at:

[http://www.epa.gov/waterscience/standards/wqslibrary/ca/ca\\_9\\_san\\_francisco.pdf](http://www.epa.gov/waterscience/standards/wqslibrary/ca/ca_9_san_francisco.pdf)

The Basin Plan is also published by the Regional Board on the internet at:

<http://www.swrcb.ca.gov/rwqcb2/basinplan.htm>

<sup>9</sup> The CTR is set forth at 40 C.F.R. § 131.38 and is explained in the Federal Register preamble accompanying the CTR promulgation set forth at 65 Fed. Reg. 31682

2. Dissolved oxygen levels shall be a minimum of 5.0 mg/L [5,000 ug/L]. *Id.* at III-
3. Suspended sediment shall not be discharged at rates that cause nuisance or adversely affect beneficial uses. *Id.* at III-3.
4. Waters shall not contain settleable material in concentrations that result in deposition of material that causes nuisance or adversely affects beneficial uses. *Id.*
5. Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. *Id.*
6. Waters shall not contain oils, greases, waxes, or other similar materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses. *Id.*

The Basin Plan further establishes numeric water quality criteria for copper, lead, and zinc.

ERF alleges and puts You on notice that Your discharges of stormwater from the Facility from each of the discharge locations ("outfalls") identified in Your 516 A SWPPP and 516 B SWPPP have caused or contributed to an exceedance of one or more of the above-listed Water Quality Standards. Attachments 1 and 2 to this Notice Letter compiles some of the self-monitoring data reported by the Facility to the Regional Board reflecting the Facility's sampling of stormwater discharges. The sample results reflected in Attachments 1 and 2 are representative of the pollutant levels in the Facility's discharge of stormwater, including such discharges that You did not sample or analyze. Thus, every instance when the Facility has discharged stormwater, including instances when the Facility has discharged stormwater that You have not sampled, this stormwater discharge has contained levels of pollutants comparable to the levels set forth in Attachments 1 and 2. Attachments 1 and 2 indicates that the Facility routinely discharges stormwater to Elkhorn Slough containing, *inter alia*, the following pollutants: copper, lead, zinc, total suspended solids (TSS), Specific Conductance (EC), oil and grease, BOD, and COD. The levels of these pollutants in Your Facility's stormwater discharges have caused pollution, contamination, or nuisance in violation of the Discharge Prohibitions of the Industrial Stormwater Permit, ¶ A.2 and adversely impacted the environment in violation of the Receiving Water Limitations of the Industrial Stormwater Permit, ¶ C.1. Moreover, the discharge of these pollutants has caused the Elkhorn Slough not to attain or contributed to these waters not attaining one or more applicable Water Quality Standards in violation of the Receiving Water Limitations of the Industrial Stormwater Permit, ¶ C.1.<sup>10</sup>

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<sup>10</sup> The July 1, 2015 version of this permit contains Receiving Water Limitations. *See* 2015 Permit § VI.A-C and VII.B. ERF hereby places you on notice that ERF intends to bring claims against you for violations of these provisions in the July 1, 2015 version of the

Specifically, Your Facility's discharge of excessive TSS has caused or contributed to Elkhorn Slough not meeting applicable Water Quality Standards in the Basin Plan for levels of suspended sediment and turbidity. Your Facility's discharge of stormwater containing suspended and settleable toxic metals and other materials has contributed to the deposition and/or dispersal of materials that interfere with beneficial uses of Elkhorn Slough and a detrimental increase in concentrations of toxic substances found in bottom sediments or aquatic life due to bioaccumulation. Your Facility's discharge of copper, lead and zinc have caused the Elkhorn Slough to exceed Water Quality Criteria established by the CTR and Basin Plan for these pollutants. Your Facility's discharge of stormwater with high BOD/COD has contributed further to the failure of Elkhorn Slough to meet standards for dissolved oxygen. Your Facility's discharge of oil and grease has caused or contributed to the Elkhorn Slough not meeting applicable Water Quality Standards in the Basin Plan for oil and grease.

ERF alleges and puts You on notice that each day that You discharged stormwater from the Facility, Your stormwater contained levels of pollutants matching the levels set forth in Attachments 1 and 2 and thus caused levels of pollutants to exceed one or more of the applicable Water Quality Standards in the Elkhorn Slough.<sup>11</sup> While You should be aware of each day that You have discharged stormwater from the Facility (as the Industrial Stormwater Permit requires You to monitor such discharges), ERF alleges and puts You on notice that since the effective date of the above-referenced Water Quality Standards, which date back at least to 1986 in most instances and to May 24, 2000 for the California Toxics Rule's limit on copper, lead, and zinc, You have discharged stormwater from the Facility during at least every significant local rain event over 0.1 inches that have caused or contributed to Water Quality Standards not being met in the Elkhorn Slough. Significant local rain events are reflected in the rain gauge data available at <http://cdec.water.ca.gov> and

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Industrial Stormwater Permit to the extent that You continue Your present stormwater discharge practices in the future.

<sup>11</sup> The version of permit effective July 1, 2015 contains two types of Numerical Action Level (NAL) exceedances: (1) an annual NAL and (2) an instantaneous maximum NAL. An annual NAL exceedance occurs when the average of all sampling results within a reporting year for a single parameter (except pH) exceeds the applicable annual NAL. An instantaneous maximum NAL exceedance occurs when two or more analytical results from samples taken for any parameter within a reporting year exceed the applicable instantaneous maximum NAL value. Instantaneous maximum NALs are only for Total Suspended Solids (TSS) and Oil and Grease (O&G). The 2015 Permit requires dischargers to develop and implement Exceedance Response Actions (ERAs), when an annual NAL or instantaneous maximum NAL exceedance occurs during a reporting year. *See* 2015 Permit § XI and XII. ERF hereby places you on notice that ERF intends to bring claims against you for violations of this provision in the July 1, 2015 version of the Industrial Stormwater Permit to the extent that You continue Your present stormwater discharge practices (which include discharges at levels above the NAL) and fail to adopt compliant ERAs.

<http://lwf.ncdc.noaa.gov/oa/ncdc.html>, and, as mentioned above, summarized in Attachment 3.

ERF representatives further observed discharges of stormwater from outfall 2 at the 516 B portion of the Facility on December 3 and December 11, 2014. On both days, ERF representatives observed very prominent oil sheens in Your stormwater discharges from this outfall and detected very strong petroleum hydrocarbon odors in the wastewater. ERF representatives further observed that Your stormwater discharges on both days were very murky and dark colored and thus visibly contained high levels of turbidity. On December 11, 2014, ERF representatives further observed that Your stormwater discharges were reaching Elkhorn Slough and were causing visible oil sheens and visibly elevated turbidity in Elkhorn Slough's receiving waters. Thus, Your stormwater discharges were Elkhorn Slough waters to fail to meet the Basin Plan's narrative water quality standards mandating that "Waters shall not contain oils, greases, waxes, or other similar materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses" and "Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses." Basin Plan III-3. ERF alleges that the stormwater discharges ERF observed on these two days are representative of Your stormwater discharges generally and thus every day you have discharged stormwater, You have discharge stormwater that causes the Elkhorn Slough to fail to meet these Basin Plan water quality standards.

Your unlawful discharges from the Facility continue to occur presently during all significant rain events. Each discharge from Your Facility that causes or contributes to an exceedance of an applicable Water Quality Standard constitutes a separate violation of the Industrial Stormwater Permit and the CWA. You are subject to penalties for violations of the Industrial Stormwater Permit and the CWA within the past five (5) years.

### **3. Violation of Industrial Stormwater Permit Conditions Related to Development and/or Implementation of an Adequate Stormwater Pollution Prevention Plan ("SWPPP")**

The Industrial Stormwater Permit, Section A: Stormwater Pollution Prevention Plan Requirements, ¶ 1 requires dischargers covered by the Industrial Stormwater Permit and commencing industrial activities before October 1, 1992 to develop and implement an adequate SWPPP by October 1, 1992. The Provisions of the Industrial Stormwater Permit, ¶ C.1 also requires dischargers to make all necessary revisions to existing SWPPPs promptly, and in any case no later than August 1, 1997.<sup>12</sup>

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<sup>12</sup> The July 1, 2015 version of this permit contains essentially identical SWPP requirements, but with a new set of minimum BMPs and additional Advanced BMPs. *See* 2015 Permit § X.A-I. ERF hereby places you on notice that ERF intends to bring claims against you for violations of these provisions in the July 1, 2015 version of the Industrial Stormwater Permit to the extent that You continue Your present stormwater discharge practices in the future as

The SWPPP must include, among other requirements, the following:

1. Specification of BMPs designed to reduce pollutant discharge to BAT and BCT levels, including BMPs already existing and BMPs to be adopted or implemented in the future. Industrial Stormwater Permit at 17, Section A: Stormwater Pollution Plan Requirements, ¶ 8.
2. A site map showing the stormwater conveyance system and areas of actual and potential pollutant contact and all areas of on-going industrial activity. *Id.* at 12-13, Section A: SWPPP Requirements, ¶ 4.
3. Identification of the specific individual or individuals and their positions within the facilities organization as members of a stormwater pollution prevention team responsible for developing the SWPPP, assisting the facilities manager in SWPPP implementation and revision, and conducting all monitoring program activities required in the Industrial Stormwater Permit. The SWPPP must clearly identify the Industrial Stormwater Permit related responsibilities, duties, and activities of each team member. *Id.* at 12, Section A: SWPPP Requirements, ¶ 3.a.
4. A list of significant materials handled and stored at the site and a narrative assessment of “which pollutants are likely to be present in stormwater discharges” from the site. *Id.* at 14, 17; Section A, ¶ 5 and Section A, ¶ 7.a.ii.
5. Revisions to the SWPPP within 90 days after a facility manager determines that the SWPPP is in violation of any requirements of the Industrial Stormwater Permit. *Id.* at 23, Section A: SWPPP Requirements, ¶ 10.d.

You have failed to prepare, maintain, revise and implement Your SWPPP as required, as evidenced by stormwater discharges that exceed EPA and State benchmarks and contribute to violations of Water Quality Standards in receiving waters. Your SWPPP does not specify adequate BMPs designed to reduce pollutant discharge to BAT and BCT levels in accord with Section A: SWPPP Requirements, ¶ 8 of the Industrial Stormwater Permit as evidenced by the Facility’s continued discharge of stormwater contaminated above pollutant levels attainable via application of BAT and BCT. For example all of the following BMP measures are technologically feasible, constitute BAT and BCT for Your Facility, and would greatly decrease Your discharges of contaminated stormwater: (1) paving and berming the entire Facility and building sufficient stormwater storage and treatment capacity to ensure that all stormwater is treated to a level that would meet EPA Benchmarks

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Your present practices do not include BMPs commensurate with the 2015 Permit's requirements for minimum and advanced BMPs, *i.e.*, for BMPs that will address Your exceedances of NALs, prevent exceedances of water quality standards, and be commensurate with BAT/BCT.

and not cause or contribute to exceedances of water quality standards in Elkhorn Slough, (2) regular sweeping of the Facility with a regenerative sweeper to prevent the buildup of metals and other pollutants, (3) semiannual power washing of the Facility to further prevent the buildup of metals and other pollutants (coupled with the collection and off-site disposal of power wash water), (4), constructing roof overhang structures or buildings and then conducting auto crushing and all motor vehicle fueling only under cover and away from exposure to rainwater, (5) until such overhang structures or buildings are completed, to halt the practice of fueling motor vehicles during rainstorm events, (6) to drain all automotive fluids out of stored vehicles, including transmission fluids and brake fluids, (7) not to drain automotive fluids out of stored vehicles during rain events, (8) not to allow customers to remove any automotive parts from stored vehicles during rain events and (9) to place oil absorbent materials underneath stored automobiles that are sufficiently sized and sufficiently absorbent to prevent oil staining of the ground surrounding stored automobiles.<sup>13</sup>

Your SWPPPs failed to specify such BMPs. With respect to the last of these nine BMP items, Your SWPPPs provide for the placement of carpeted floor mats or other small pieces of carpet underneath the front portion of most vehicles or the rear portion of rearwheel drive vehicles and trucks to collect residual oils leaking from vehicles. SWPPP 516 A, §§ 4.1.6., 4.2, 4.3.3, Appendix 2; SWPPP 516 B § 4.1.6, 4.2, 4.3.3, Appendix 2. This BMP is plainly inadequate. ERF representatives visited the Facility on September 19, 2015 and observed extensive oil staining throughout the Facility. ERF representatives observed that oil dripping from vehicles in numerous locations saturated the small carpeted mats placed underneath vehicles and that oil then further leaked beyond these mats onto the soil surrounding the mats. ERF representatives further observed numerous oil stains on the ground in various other locations, including the areas You use as roadway or driveway for the movement of vehicles, personnel, and customers. It was plainly obvious that the extensive oil staining on the Facility could only have occurred from long-term and systematic failure to capture and clean-up oil leaks from vehicles.

Furthermore, Your November 25, 2014 cover letter to the Regional Board accompanying Your transmittal of the 516 B SWPPP expressly admitted and represented that sand filters equivalent to the StormwaterRx Aquip-Retenu Filtration System are BAT for Your industry. Yet, Your current 516 A SWPPP and 516 B SWPPP only provide for a sand filter to treat discharges from one of your four stormwater outfalls--outfall 2 located on the 516 B Dolan Road site. Your SWPPP is thus inadequate in failing to provide for sand filter

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<sup>13</sup> See SC-33, *Outdoor Storage of Raw Materials*, in the California Stormwater BMP Handbook, by the California Stormwater Quality Association, available at <http://www.cabmphandbooks.com/Industrial.asp>. This suggested protocol states in pertinent part: "Store all materials inside. If this is not feasible, then all outside storage areas should be covered with a roof and bermed or enclosed to prevent stormwater contact."



treatment at all four of your stormwater outfalls when You have expressly conceded that sand filter treatment is BAT for Your industry. Additionally, your SWPPP is inadequate in providing for a filtration system that only has the capacity to treat 160 gallons per minute. This is an undersized filter for the area being treated. Storm events with an expected return frequency of only one year generate stormwater runoff at a rate that exceeds this 160 gallons per minute rate many times over. Thus, even in relatively routine storms, Your sand filter system will be rapidly overwhelmed by incoming stormwater flow, and You will discharge stormwater that does not receive treatment from Your sand filter. Finally, ERF agrees that filtration of stormwater prior to discharge from an auto dismantling facility constitutes a component of BAT and BCT. However, filtration of stormwater with a sand filter unit comparable to the one You have employed is not and would not be sufficient to meet BAT and BCT treatment requirements. A sand filter is not the best available technology or best conventional technology for Your Facility. More sophisticated and effective filter systems constitute BAT and BCT for Your Facility, and You will only comply with requirements to employ BAT and BCT by revising Your SWPPPs to specify such more effective filter systems.

Furthermore, in your 2013-2014 Annual Reports, you expressly indicated that an appropriate revised BMP measure necessary for the Facility was the installation of new sand filters at both stormwater discharge points located on the 516 A Dolan Road site and an additional discharge point located on 516 B Dolan Road (outfall 1) to further reduce TSS concentrations. However, as indicated by ERF's review of Regional Board files, You have yet to revise Your SWPPP to specify installation of a sand filter at 516 A Dolan Road. At 516 B Dolan Road, You have yet to revise Your SWPPP to specify installation of a sand filter on outfall 1 and an adequately designed and maintained sand filter for outfall 2 (as evidenced, for example, by the very high levels of pollutants in a stormwater discharge that ERF sampled from Your Facility on December 3 and December 11, 2014). Your SWPPP is not adequate due to its failure to include a properly updated specification of such BMPs. Furthermore, Your failure to revise Your SWPPPs to provide for the sand filters and then implement such revised SWPPPs within 90 days of Your finding that additional sand filters are necessary constitutes a violation of Section A, ¶ 10.d. of the Industrial Stormwater Permit. This latter section of the Industrial Stormwater Permit requires SWPPPs to "be revised and implemented in a timely manner, but in no case more than 90 days after facility operator determines that the SWPPP is in violation of any requirement(s) of this General Permit." Your finding that additional sand filters are required at the Facility is the equivalent of finding that current BMPs at the Facility do not meet the Permit's requirement to have BMPs that achieve BAT or BCT levels of treatment.

You have further failed to implement Your SWPPPs' provision for promptly cleaning up spilled oil. SWPPP 516 A, § 4.1.6.; SWPPP 516 B § 4.1.6. As noted, ERF representatives visited the Facility on September 19, 2015 and observed extensive oil staining throughout the Facility. ERF representatives observed that oil dripping from vehicles in numerous locations saturated the small carpeted mats placed underneath vehicles and that oil then further leaked beyond these mats onto the soil surrounding the mats. ERF

representatives further observed numerous oil stains on the ground in various other locations, including the areas You use as roadway or driveway for the movement of vehicles, personnel, and customers. ERF representatives observed these oil stains on the ground in areas that are plainly and easily accessible and could have easily been cleaned up. It was plainly obvious that the extensive oil staining on the Facility could only have occurred from long-term and systematic failure to capture and clean-up oil leaks from vehicles, even in areas where cleanup would be easily accomplished.

You have failed to comply with requirements that Your SWPPPs include a complete list of significant materials handled and stored at the site and assessment of "which pollutants are likely to be present in stormwater discharges" from the site. Industrial Stormwater Permit; Section A, ¶ 5 and Section A, ¶ 7.a.ii. Your SWPPP fails to identify the following pollutants obviously present at a facility engaged in auto dismantling and auto crushing: ethylene glycol, biochemical oxygen demand, chemical oxygen demand, acids, halogenated organic compounds present in solvents, and detergents.

Your site map in Your SWPPP is inadequate because it does not comply with the specifications in the California Auto Dismantling Group Participants Group Stormwater Management Program Manual and Stormwater Pollution Prevention Plan ("GSMP") referred to in section 4, below, to include sufficiently detailed specification of the size in square feet or acreage of the buildings, operation areas, and storage areas comprising the Facility. This constitutes a violation of Industrial Stormwater Permit; Section A, ¶ 4 and Section B, ¶ 15.

Your failures to draft an adequate SWPPP, and/or to revise, and/or to implement Your SWPPP in all the above respects are in violation of the requirements of Section A of the Industrial Stormwater Permit. You were required to have prepared and implemented an adequate SWPPP by no later than October 1, 1992 pursuant to the previous Industrial Stormwater Permit issued by the State Board and by Section A: Stormwater Pollution Prevention Plan Requirements, ¶ 1 of the current Industrial Stormwater Permit. Therefore, You have been in daily and continuous violation of the requirement to develop and implement an adequate SWPPP for the Facility on each and every day since October 1, 1992 that You have maintained the Facility. You will continue to be in violation every day that You fail to develop and implement an adequate SWPPP. You are subject to penalties for violations of the Industrial Stormwater Permit and the CWA occurring within the past five (5) years.

**4. Failure to Develop and/or Implement an Adequate Monitoring and Reporting Program and Perform Annual Comprehensive Site Compliance Evaluations as Required by the Industrial Stormwater Permit.**

The Industrial Stormwater Permit, Section B: Monitoring and Reporting Program (MRP) Requirements, ¶ 1, and Provisions, ¶ E.3, require dischargers to develop and

implement an adequate written MRP by October 1, 1992 or when their industrial activities begin. The MRP must be sufficient to: (a) ensure that stormwater discharges are in compliance with the Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations specified in the Industrial Stormwater Permit, (b) ensure practices at the facilities to reduce or prevent pollutants in stormwater discharges and authorized non-stormwater discharges are evaluated and revised to meet changing conditions, (c) aid in the implementation and revision of the SWPPP as required by the Industrial Stormwater Permit, and (d) measure the effectiveness of BMPs to prevent or reduce pollutants in stormwater discharges and authorized non-stormwater discharges. Section B: MRP Requirements, ¶ 2. All dischargers must fully implement their MRP. Section B: MRP Requirements, ¶ 1. All dischargers must submit a certified Annual Report documenting monitoring activity. Section B: MRP Requirements, ¶ 14. In addition, Section C: Standard Provisions, ¶¶ 9 and 10, of the Industrial Stormwater Permit require dischargers to certify, based on annual site inspection, that the permitted facilities are in compliance with the Permit and to report any noncompliance with its terms.<sup>14</sup> As described below, however, You have not adopted or have not fully implemented an adequate MRP, have failed to provide complete and accurate Annual Reports, and have failed to provide accurate reporting of noncompliance with the terms of the Industrial Stormwater Permit.

You are a member of the California Auto Dismantling Monitoring Group and as such are subject to the Stormwater Industrial Permit's group monitoring requirements set forth in Section B: MRP Requirements, ¶ 15. While this section of the Stormwater Industrial Permit authorizes You to reduce your stormwater sampling frequency from two storm events per year that would otherwise be mandated by Section B: MRP Requirements, ¶ 5 to no less than two storm events per five year period (as directed by the group leader of the California Auto Dismantling Monitoring Group ("Group Leader")), You are still required to comply with the Industrial Stormwater Permit's requirements concerning the timing of Your sampling events and the outfalls you must sample. You are further still required to comply with the provisions in Your SWPPP concerning the outfalls you must sample and the pollutants you must analyze.<sup>15</sup> See Industrial Stormwater Permit, Section B.1.

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<sup>14</sup> The July 1, 2015 version of this permit contains updated Monitoring requirements. See 2015 Permit § XI. ERF hereby places you on notice that ERF intends to bring claims against you for violations of these provisions in the July 1, 2015 version of the Industrial Stormwater Permit to the extent that You continue Your present stormwater discharge practices in the future as Your present practices do not include monitoring efforts commensurate with the 2015 Permit's requirements.

<sup>15</sup> The 2015 Permit will revoke the Group Monitoring provisions of the version of the industrial Stormwater Permit currently in effect and replace these provisions with provisions for Compliance Groups. Even if you become a member in a California auto dismantling industry Compliance Group in the future. You will be required to sample discharges from two storm events each year. 2015 Permit, § 9.B.3. ERF hereby places you on notice that ERF intends to bring claims against you for violations of this provision in the July 1, 2015 version of the Industrial Stormwater Permit to the extent that You continue Your present

Your MRP must provide for collection of stormwater samples from the first hour of discharge from the first storm event of the wet season and analysis of such samples. Section B: MRP Requirements ¶ 5. Your MRP must further direct You to take and analyze samples from each discharge point at Your Facility. *Id.* at ¶¶ 5, 7.a. Your MRPs do mandate that You take and separately analyze samples from each discharge point at Your Facility during the stormwater discharge events you monitor. SWPPP 516 A ¶ 5.4; SWPPP 516 B ¶ 5.4. Your Annual Reports submitted to the Regional Board for the Facility indicate that You have not consistently and/or properly taken and analyzed the required samples. For 516 A Dolan Road, You only analyzed a composite sample for the single stormwater discharge You sampled in water year 2011/12. Analysis of a composite sample does not comply with the Permit requirements as it does not represent sampling from all representative discharge points that represent the "quality and quantity of the facility's stormwater discharges." *Id.* at ¶ 7.a.; *see also id.* ¶ 7.d. (authorizing compositing samples from multiple discharge locations only upon annual report documentation that the samples are from a "substantially identical drainage area." Notably, Your SWPPPs indicate that the areas draining to Your outfalls are not substantially identical. SWPPP 516 A ¶ 5.4; SWPPP 516 B ¶ 5.4). In water year 2012/13, You did not collect or analyze a single stormwater sample at all. This is a violation of the Permit to the extent that the Group Leader directed You to take a stormwater sample in that water year. Section B: MRP Requirements ¶ 15.

For 516 B Dolan Road, in water years 2009/10 and 2010/11, You either analyzed only a composite sample or a sample from only 1 of 2 discharge points. In either case, this would be a violation of the MRP requirements. *Id.* at ¶¶ 5, 7. For water year 2011/2012, You analyzed only a composite sample, in violation of the Permit's requirements. In water year 2014/15, You analyzed samples from each of Your two discharge points, but You took these samples on different days. The Permit and Your MRP require You to take Your samples from all discharge locations during the same first storm event of the wet season (and to sample all discharge locations during each qualifying storm event that You take samples during). *See id.* Section B ¶ 5; 516 B SWPPP ¶ 5.4. Thus, You violated the Permit's Section B: MRP Requirements ¶¶ 5, 7 by not collecting and analyzing stormwater samples as required by the Industrial Stormwater Permit and Your MRPs. For water years 2008/09 and 2012/13, You did not analyze any samples at all. This is a violation of the Permit to the extent that the Group Leader directed You to take a stormwater sample in those water years. Section B: MRP Requirements ¶ 15.

Your MRP must provide for visual monitoring and recording of stormwater discharge from one rainfall event per month during the October 1 to May 30 wet season. Section B: MRP Requirements, ¶¶ 3, 4 and 7 (visual observation of stored or contained stormwater must be made during release). Your Annual Reports submitted to the Regional Board for the Facility indicate that in all years from at least 2011 to the present, You have

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stormwater discharge practices in the future and do not increase the frequency of Your stormwater sampling and analysis to this frequency.

not made and recorded at least one visual observation of all points of discharge of stormwater from Your Facility during at least one rainfall event per month from October 1 to May 30. There were several months in this time period during which You had stormwater discharges from self-reported and unreported discharge points but failed to monitor stormwater discharges and record the results of this monitoring. Specifically, You failed to make the required visual observations of storms in the following months; 2012-March; 2013-March, April, October.

You have repeatedly failed to include all discharge points in Your wet season monthly monitoring. You have reported two discharge points at each part of the facility located at 516 A Dolan Road and 516 B Dolan Road, for a total of four discharge points. You also failed to conduct monthly visual observations or record discharges at each discharge point, including but not limited to the two reported discharge points at each part of the Facility. You failed to report accurately on the presence of qualifying storms and the presence of discharge during the wet season in several years. Specifically, You failed to make the required visual observations of stormwater discharges during storms in the following months: 2011-October, November; 2012-January, March, April, October, November, December; 2013-March, April, October, November; 2014-March, April. Your Annual Reports simply skip some of these months altogether or otherwise fail to report visual observations of stormwater discharge on all days where NOAA climate data for the Watsonville Airport station reports that there was rain over 0.1 inches. Thus there necessarily had to have been discharge from the Facility that you failed to observe and report. Accordingly, You have violated the visual monitoring requirements of Section B: MRP Requirements, ¶ 3 and the Annual Report requirements of Section B: MRP Requirements, ¶ 14 and Section C: Standard Provisions, ¶¶ 9 and 10.

It is a further violation of Your SWPPP that You failed to monitor and report on Stormwater discharges during rain events. Section 5.1.4 of both the 516 A and 516 B SWPPP provides for "Daily Rain Checks" wherein You "shall document any rain events that occur during working hours and within the first hour that discharge from the facility occurs." As noted, any failure to comply with Your SWPPP also constitutes a violation of Section A, ¶ 1 of the Industrial Stormwater Permit. These visual monitoring failures further constitute failure to comply with the GSMP, which imposes the same monitoring requirements. This constitutes a violation of the Permit, Section B: MRP, ¶ 15.

Your MRP must provide for analysis of stormwater samples for TSS, pH, specific conductance, and total organic carbon ("TOC") or oil and grease. In addition, Your MRP must provide for analysis of stormwater samples for the other analytical parameters listed in the Industrial Stormwater Permit under Table D. You indicate that Your SIC code is 5015, which would obligate You under Table D to analyze stormwater samples for iron, lead, and aluminum. However, given that You acknowledge that you perform auto crushing and engaged in the sale of crushed autos as scrap metal, You also should be assigned SIC Code 5093, the SIC Code assigned to auto wreckers engaged in dismantling automobiles for scrap. Table D thus further requires You to analyze Your samples for copper, zinc and

chemical oxygen demand (COD). You must in any case analyze Your samples at least for all of the polluting parameters identified in Your SWPPP/MRP. Industrial Stormwater Permit, Section B: MRP, ¶ 1. Your SWPPP/MRP identifies the following pollutants as those You will analyze your stormwater discharges for: Specific Conductivity (EC), pH Level, Oil and Grease, Total Suspended Solids, Total Aluminum, Total Copper, Total Iron, Total Lead, and Total Zinc. SWPPP 516 B, ¶ 5.2. The GSMP (¶ 2.3, Appendix 3) further specifies that You and all monitoring group members must analyze your stormwater discharges for: pH, TSS, specific conductance, TOC, COD, oil and grease, total lead, total zinc, total aluminum, total iron, total copper, and total nickel. Finally, Your MRP must provide for analysis of toxic chemicals and other pollutants that are likely to be present in Your stormwater discharges. Industrial Stormwater Permit, Section B: MRP Requirements, ¶ 5. Sampling conducted by You and by ERF has shown that Your stormwater discharges, in addition to these aforementioned pollutants, contain elevated copper, zinc, biochemical oxygen demand (BOD), and COD. In addition, any party operating in Your industry doing their due diligence would know that stormwater from a Facility such as Yours would have high BOD and COD. Your MRP is inadequate because it fails to provide for analysis of BOD and COD.

You have failed to implement Your MRP and/or an MRP that would be compliant with the Stormwater Industrial Permit because you have not analyzed all of the pollutant parameters listed in the above paragraph in each of the stormwater runoff events from Your Facility that You were required to take samples of. Specifically, You failed to analyze Your stormwater discharges from the outfalls on both the 516 B and 516 A Dolan sites for iron, aluminum, nickel, TOC, and BOD/COD in the stormwater sample you took in water year 2010/2011, for iron, aluminum, nickel, TOC, and BOD/COD in the stormwater sample you took in water year 2010/2011; for iron, aluminum, nickel, TOC, and BOD/COD in the stormwater sample you took in water year 2011/2012; and for BOD/COD and pH in the stormwater sample you took in water year 2013/14.

Finally, we note that unauthorized non-stormwater discharges are prohibited by the Industrial Permit. Section A ¶ 1. You are required to report and monitor all unauthorized non-stormwater discharges. Section B ¶ 3. In Your Annual Reports for 516 A Dolan Road, in 2013/14, You self-reported that after quarterly observation, You observed unauthorized non-stormwater discharges, and referred to Attachment 2 as a summary of these non-stormwater discharges. However, in violation of the requirements of the Permit, Section B, this chart does not indicate the source of these discharges or any corrective action to address these discharges. In 2012/13, You did not answer either way whether there were observed non-stormwater discharges at either the 516 A or 516 B Dolan sites, but attached the same format for the chart tracking the non-stormwater discharges that similarly fail to properly indicate the source of the discharges or any corrective actions.

Based on the above, You have not developed and implemented an adequate MRP. You were required to have prepared and implemented an adequate MRP by no later than October 1, 1992 pursuant to the previous Industrial Stormwater Permit issued by the State Board and

by Section B: Monitoring Program and Reporting Requirements, ¶ 1.a. of the current Industrial Stormwater Permit. Therefore, You have been in daily and continuous violation of the monitoring and reporting requirements of the Industrial Stormwater Permit set forth in Section B: MRP Requirements every day since October 1, 1992. You will continue to be in violation every day that You fail to develop and implement an adequate MRP for the Facility. You are subject to penalties for violations of the Industrial Stormwater Permit and the CWA occurring within the past five (5) years.

As further discussed above, You have not submitted accurate and complete Annual Reports and reports of Your noncompliance with the Industrial Stormwater Permit. Therefore, You have been in daily and continuous violation of the reporting requirements of the Industrial Stormwater Permit, Section B: MRP Requirements, ¶ 14 and Section C: Standard Provisions, ¶¶ 9 and 10 every day since each of Your Annual Reports were due.

#### **IV. PERSONS RESPONSIBLE FOR THE VIOLATIONS**

Pick-n-Pull, Pick-n-Pull Auto Dismantlers, LLC, Schnitzer Steel Industries, Inc., Ms. Tamara Lundgren, and Mr. Patrick Hultin, are the persons responsible for the violations at the Facility described above.

#### **V. NAME AND ADDRESS OF NOTICING PARTY**

Our name, address, and telephone number is as follows:

Ecological Rights Foundation  
867 B Redwood Drive  
Garberville, CA 9542  
(707) 923-4372

#### **VI. COUNSEL**

ERF has retained legal counsel to represent it in this matter. Please direct all communications to:

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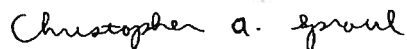
## VII. REMEDIES

ERF will seek injunctive and declaratory relief preventing further CWA violations pursuant to CWA sections 505(a) and (d), 33 U.S.C. §1365(a) and (d), and such other relief as permitted by law. In addition, ERF will seek civil penalties pursuant to CWA section 309(d), 33 U.S.C. § 1319(d) and 40 C.F.R. section 19.4, against each defendant in this action of up to \$32,500 for all violations on or after March 15, 2004. *See* 69 Fed. Reg. 7121 (Feb. 13, 2004). Lastly, ERF will seek to recover costs and attorneys' fees in accord with CWA section 505(d), 33 U.S.C. § 1365(d).

ERF believes this Notice of Violations and Intent to Sue sufficiently states grounds for filing suit. We intend, at the close of the 60-day notice period or thereafter, to file a citizen suit under CWA section 505(a) against You for the above-referenced violations.

During the 60-day notice period, we would be willing to discuss effective remedies for the violations noted in this letter. If You wish to pursue such discussions in the absence of litigation, we suggest that You initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Christopher Sproul  
Environmental Advocates  
Counsel for Ecological Rights Foundation



**ADDITIONAL SERVICE LIST – FEDERAL & STATE AGENCIES**

|   |  |
|---|--|
| cc: Gina McCarthy, Administrator U.S.<br>Environmental Protection Agency<br>Ariel Rios Building<br>1200 Pennsylvania Avenue, N.W.<br>Washington, D.C. 20460 | Eric Holder, U.S. Attorney General<br>U.S. Department of Justice<br>950 Pennsylvania Avenue, N.W.<br>Washington, D.C. 20530-0001 |
| Jared Blumenfeld, Regional Administrator<br>U.S. Environmental Protection<br>Agency Region IX<br>75 Hawthorne Street<br>San Francisco, California 94105     | Thomas Howard<br>Executive Director<br>State Water Resources Control Board<br>P.O. Box 100<br>Sacramento, California 95812-0100  |
| Kenneth A. Harris, Executive Officer<br>Regional Water Quality Control Board<br>Region 3<br>895 Aerovista Place, Suite 101<br>San Luis Obispo, CA 93401     |  |

## ATTACHMENT 1: SAMPLING RESULTS FROM 516A DOLAN ROAD

### PICK-N-PULL ANNUAL REPORTS<sup>1</sup>:

| DATE      | OUTFALL | POLLUTANT | RESULT    | EPA BENCHMARK | TIMES<br>EXCEEDED | CTR (Salt) CMC | TIMES<br>EXCEEDED | BASIN PLAN<br>Table 3-6 | TIMES<br>EXCEEDED |
|-----------|---------|-----------|-----------|---------------|-------------------|----------------|-------------------|-------------------------|-------------------|
| 2/28/2014 | South   | pH        | 6.2       | 6 to 9        |                   |                |                   | 7 to 8.5                | 1.13              |
| 2/28/2014 | South   | EC        | 257 uS/cm | 200 uS/cm     | 1.30              |                |                   |                         |                   |
| 2/28/2014 | South   | TSS       | 52 mg/L   | 100 mg/L      |                   |                |                   |                         |                   |
| 2/28/2014 | South   | Zn-D      | 27 ug/L   |               |                   |                |                   |                         |                   |
| 2/28/2014 | South   | Zn-T      | 97 ug/L   | 117 ug/L      |                   | 90 ug/L        | 1.08              | 20 ug/L                 | 4.85              |
| 2/28/2014 | South   | Cu-D      | 26 ug/L   |               |                   |                |                   |                         |                   |
| 2/28/2014 | South   | Cu-T      | 43 ug/L   | 63.6 ug/L     |                   | 4.8 ug/L       | 8.96              | 10 ug/L                 | 4.30              |
| 2/28/2014 | South   | Pb-D      | <1.0 ug/L |               |                   |                |                   |                         |                   |
| 2/28/2014 | South   | Pb-T      | 21 ug/L   | 81.6 ug/L     |                   | 210 ug/L       |                   | 10 ug/L                 |                   |
| 2/28/2014 | South   | Al-D      | <50 ug/L  |               |                   |                |                   |                         |                   |
| 2/28/2014 | South   | Al-T      | 2400 ug/L | 750 ug/L      | 3.20              |                |                   |                         |                   |
| 2/28/2014 | South   | Fe-D      | 50 ug/L   |               |                   |                |                   |                         |                   |
| 2/28/2014 | South   | Fe-T      | 2700 ug/L | 1000 ug/L     | 2.70              |                |                   |                         |                   |
| 2/28/2014 | South   | TOG       | <5.0 mg/L | 15 mg/L       |                   |                |                   |                         |                   |
| 2/28/2014 | North   | pH        | 6.1       | 6 to 9        |                   |                |                   | 7 to 8.5                | 1.15              |
| 2/28/2014 | North   | EC        | 181 uS/cm | 200 uS/cm     |                   |                |                   |                         |                   |
| 2/28/2014 | North   | TSS       | 87 mg/L   | 100 mg/L      |                   |                |                   |                         |                   |
| 2/28/2014 | North   | Zn-D      | 48 ug/L   |               |                   |                |                   |                         |                   |
| 2/28/2014 | North   | Zn-T      | 80 ug/L   | 117 ug/L      |                   | 90 ug/L        |                   | 20 ug/L                 | 4.00              |
| 2/28/2014 | North   | Cu-D      | 25 ug/L   |               |                   |                |                   |                         |                   |
| 2/28/2014 | North   | Cu-T      | 32 ug/L   | 63.6 ug/L     |                   | 4.8 ug/L       | 6.67              | 10 ug/L                 | 3.20              |
| 2/28/2014 | North   | Pb-D      | 1.2 ug/L  |               |                   |                |                   |                         |                   |
| 2/28/2014 | North   | Pb-T      | 9.4 ug/L  | 81.6 ug/L     |                   | 210 ug/L       |                   | 10 ug/L                 |                   |
| 2/28/2014 | North   | Al-D      | <50 ug/L  |               |                   |                |                   |                         |                   |
| 2/28/2014 | North   | Al-T      | 1000 ug/L | 750 ug/L      | 1.33              |                |                   |                         |                   |
| 2/28/2014 | North   | Fe-D      | 70 ug/L   |               |                   |                |                   |                         |                   |
| 2/28/2014 | North   | Fe-T      | 1200 ug/L | 1000 ug/L     | 1.20              |                |                   |                         |                   |
| 2/28/2014 | North   | TOG       | <5.0 mg/L | 15 mg/L       |                   |                |                   |                         |                   |

No sampling data provided with 2012/2013 annual report

|           |           |     |           |           |      |          |      |          |      |
|-----------|-----------|-----|-----------|-----------|------|----------|------|----------|------|
| 1/24/2012 | Composite | EC  | 259 uS/cm | 200 uS/cm | 1.30 |          |      |          |      |
| 1/24/2012 | Composite | pH  | 6.6       | 6 to 9    |      |          |      | 7 to 8.5 | 1.06 |
| 1/24/2012 | Composite | Cu  | 36 ug/L   | 63.6 ug/L |      | 4.8 ug/L | 7.50 | 10 ug/L  | 3.60 |
| 1/24/2012 | Composite | TSS | 33 mg/L   | 100 mg/L  |      |          |      |          |      |
| 1/24/2012 | Composite | Pb  | 13 ug/L   | 81.6 ug/L |      | 210 ug/L |      | 10 ug/L  | 1.30 |
| 1/24/2012 | Composite | Zn  | 97 ug/L   | 117 ug/L  |      | 90 ug/L  | 1.08 | 20 ug/L  | 9.70 |
| 1/24/2012 | Composite | TOG | <5.0 mg/L | 15 mg/L   |      |          |      |          |      |

1. Pick-n-Pull Annual Reports submitted to the State Water Resources Control Board.

## ATTACHMENT 2: SAMPLING RESULTS FROM 516B DOLAN ROAD

### PICK-N-PULL ANNUAL REPORTS:<sup>1</sup>

| DATE      | OUTFALL | POLLUTANT | RESULT    | EPA BENCHMARK | TIMES EXCEEDED | CTR (Salt) CMC | TIMES EXCEEDED | BASIN PLAN Table 3-6 | TIMES EXCEEDED |
|-----------|---------|-----------|-----------|---------------|----------------|----------------|----------------|----------------------|----------------|
| 2/27/2014 | North/2 | pH        | 6.4       | 6 to 9        |                |                |                | 7 to 8.5             | 1.09           |
| 2/27/2014 | North   | EC        | 294 uS/cm | 200 uS/cm     | 1.47           |                |                |                      |                |
| 2/27/2014 | North   | TSS       | 134 mg/L  | 100 mg/L      | 1.34           |                |                |                      |                |
| 2/27/2014 | North   | Zn-D      | 37 ug/L   |               |                |                |                |                      |                |
| 2/27/2014 | North   | Zn-T      | 120 ug/L  | 117 ug/L      | 1.02           | 90 ug/L        | 1.33           | 20 ug/L              | 6.00           |
| 2/27/2014 | North   | Cu-D      | 13 ug/L   |               |                |                |                |                      |                |
| 2/27/2014 | North   | Cu-T      | 39 ug/L   | 63.6 ug/L     |                | 4.8 ug/L       | 8.13           | 10 ug/L              | 3.90           |
| 2/27/2014 | North   | Pb-D      | <1.0 ug/L |               |                |                |                |                      |                |
| 2/27/2014 | North   | Pb-T      | 28 ug/L   | 81.6 ug/L     |                | 210 ug/L       |                | 10 ug/L              | 2.80           |
| 2/27/2014 | North   | Al-D      | <50 ug/L  |               |                |                |                |                      |                |
| 2/27/2014 | North   | Al-T      | 6300 ug/L | 750 ug/L      | 8.40           |                |                |                      |                |
| 2/27/2014 | North   | Fe-D      | 57 ug/L   |               |                |                |                |                      |                |
| 2/27/2014 | North   | Fe-T      | 6700 ug/L | 1000 ug/L     | 6.70           |                |                |                      |                |
| 2/27/2014 | North   | TOG       | <5.0 mg/L | 15 mg/L       |                |                |                |                      |                |

|          |        |      |           |           |      |          |       |          |      |
|----------|--------|------|-----------|-----------|------|----------|-------|----------|------|
| 2/8/2014 | West/1 | pH   | 5.9       | 6 to 9    | 1.02 |          |       | 7 to 8.5 | 1.19 |
| 2/8/2014 | West   | EC   | 888 uS/L  | 200 uS/cm | 4.44 |          |       |          |      |
| 2/8/2014 | West   | TSS  | 83 ug/L   | 100 mg/L  |      |          |       |          |      |
| 2/8/2014 | West   | Zn-D | 55 ug/L   |           |      |          |       |          |      |
| 2/8/2014 | West   | Zn-T | 65 ug/L   | 117 ug/L  |      | 90 ug/L  |       | 20 ug/L  | 3.25 |
| 2/8/2014 | West   | Cu-D | 59 ug/L   |           |      |          |       |          |      |
| 2/8/2014 | West   | Cu-T | 66 ug/L   | 63.6 ug/L | 1.04 | 4.8 ug/L | 13.75 | 10 ug/L  | 6.60 |
| 2/8/2014 | West   | Pb-D | 1.0 ug/L  |           |      |          |       |          |      |
| 2/8/2014 | West   | Pb-T | 2.1 ug/L  | 81.6 ug/L |      | 210 ug/L |       | 10 ug/L  |      |
| 2/8/2014 | West   | Al-D | <500 ug/L |           |      |          |       |          |      |
| 2/8/2014 | West   | Al-T | 340 ug/L  | 750 ug/L  |      |          |       |          |      |
| 2/8/2014 | West   | Fe-D | <500 ug/L |           |      |          |       |          |      |
| 2/8/2014 | West   | Fe-T | 250 ug/L  | 1000 ug/L |      |          |       |          |      |
| 2/8/2014 | West   | TOG  | 9.3 mg/L  | 15 mg/L   |      |          |       |          |      |

No sampling results provided with 2012/2013 annual report

|           |           |     |           |           |      |          |      |          |      |
|-----------|-----------|-----|-----------|-----------|------|----------|------|----------|------|
| 1/24/2012 | Composite | EC  | 332 uS/cm | 200 uS/cm | 1.66 |          |      |          |      |
| 1/24/2012 | Composite | pH  | 5.5       | 6 to 9    | 1.09 |          |      | 7 to 8.5 | 1.27 |
| 1/24/2012 | Composite | Cu  | 41 ug/L   | 63.6 ug/L |      | 4.8 ug/L | 8.54 | 10 ug/L  | 4.10 |
| 1/24/2012 | Composite | TSS | 30 mg/L   | 100 mg/L  |      |          |      |          |      |
| 1/24/2012 | Composite | Pb  | 9.2 ug/L  | 81.6 ug/L |      | 210 ug/L |      | 10 ug/L  |      |
| 1/24/2012 | Composite | Zn  | 7.1 ug/L  | 117 ug/L  |      | 90 ug/L  |      | 20 ug/L  |      |
| 1/24/2012 | Composite | TOG | <5.0 ug/L | 15 mg/L   |      |          |      |          |      |

|           |       |     |           |           |      |          |       |          |      |
|-----------|-------|-----|-----------|-----------|------|----------|-------|----------|------|
| 4/20/2010 | North | EC  | 328 uS/cm | 200 uS/cm | 1.64 |          |       |          |      |
| 4/20/2010 | North | pH  | 7.4       | 6 to 9    |      |          |       | 7 to 8.5 |      |
| 4/20/2010 | North | Cu  | 89 ug/L   | 63.6 ug/L | 1.39 | 4.8 ug/L | 18.54 | 10 ug/L  | 8.90 |
| 4/20/2010 | North | TSS | 340 mg/L  | 100 mg/L  | 3.40 |          |       |          |      |
| 4/20/2010 | North | Pb  | 35 ug/L   | 81.6 ug/L |      | 210 ug/L |       | 10 ug/L  | 3.50 |
| 4/20/2010 | North | Zn  | 160 ug/L  | 117 ug/L  | 1.37 | 90 ug/L  | 1.78  | 20 ug/L  | 8.00 |
| 4/20/2010 | North | TOG | 13 mg/L   | 15 mg/L   |      |          |       |          |      |

1. Pick-n-Pull Annual Report filed with the State Water Resources Control Board

No sampling results provided with 2008/2009 Annual Report

**DATA REPORTED IN PICK-N-PULL'S SWPPP:<sup>2</sup>**

| DATE       | OUTFALL | POLLUTANT | RESULT    | EPA BENCHMARK | TIMES EXCEEDED | CTR (Salt) CMC | TIMES EXCEEDED | BASIN PLAN Table 3-6 | TIMES EXCEEDED |
|------------|---------|-----------|-----------|---------------|----------------|----------------|----------------|----------------------|----------------|
| 5/16/2011  | Unknown | EC        | 493 uS/cm | 200 uS/cm     | 2.50           |                |                |                      |                |
| 5/16/2011  | Unknown | pH        | 6.7       | 6 to 9        |                |                |                | 7 to 8.5             | 1.04           |
| 5/16/2011  | Unknown | TSS       | 42 mg/L   | 100 mg/L      |                |                |                |                      |                |
| 5/16/2011  | Unknown | Total Pb  | 21 ug/L   | 81.6 ug/L     |                | 210 ug/L       |                | 10 ug/L              | 2.10           |
| 5/16/2011  | Unknown | Total Zn  | 180 ug/L  | 117 ug/L      | 1.50           | 90 ug/L        | 2.00           | 20 ug/L              | 9.00           |
| 5/16/2011  | Unknown | Total Cu  | 130 ug/L  | 63.6 ug/L     | 2.00           | 4.8 ug/L       | 27.08          | 10 ug/L              | 13.00          |
| 5/16/2011  | Unknown | TOG       | 7.8 mg/L  | 15 mg/L       |                |                |                |                      |                |
| 4/14/2007  | Unknown | EC        | 642 uS/cm | 200 uS/cm     | 3.20           |                |                |                      |                |
| 4/14/2007  | Unknown | pH        | 6.8       | 6 to 9        |                |                |                | 7 to 8.5             |                |
| 4/14/2007  | Unknown | TSS       | 132 mg/L  | 100 mg/L      | 1.30           |                |                |                      |                |
| 4/14/2007  | Unknown | Total Pb  | 56 ug/L   | 81.6 ug/L     |                | 210 ug/L       |                | 10 ug/L              | 5.60           |
| 4/14/2007  | Unknown | Total Zn  | ND        | 117 ug/L      |                | 90 ug/L        |                | 20 ug/L              |                |
| 4/14/2007  | Unknown | Total Cu  | 170 ug/L  | 63.6 ug/L     | 2.70           | 4.8 ug/L       | 35.41          | 10 ug/L              | 17.00          |
| 4/14/2007  | Unknown | TOG       | 11 mg/L   | 15 mg/L       |                |                |                |                      |                |
| 10/20/2004 | Unknown | EC        | 580 uS/cm | 200 uS/cm     | 2.90           |                |                |                      |                |
| 10/20/2004 | Unknown | pH        | 7.4       | 6 to 9        |                |                |                | 7 to 8.5             |                |
| 10/20/2004 | Unknown | TSS       | 530 mg/L  | 100 mg/L      | 5.30           |                |                |                      |                |
| 10/20/2004 | Unknown | Total Pb  | 260 ug/L  | 81.6 ug/L     | 3.20           | 210 ug/L       | 1.24           | 10 ug/L              | 26.00          |
| 10/20/2004 | Unknown | Total Zn  | 790 ug/L  | 117 ug/L      | 6.80           | 90 ug/L        | 8.78           | 20 ug/L              | 39.50          |
| 10/20/2004 | Unknown | Total Cu  | 500 ug/L  | 63.6 ug/L     | 7.90           | 4.8 ug/L       | 104.16         | 10 ug/L              | 50.00          |
| 10/20/2004 | Unknown | TOG       | 48 mg/L   | 15 mg/L       | 3.20           |                |                |                      |                |
| 11/15/2003 | Unknown | EC        | 610 uS/cm | 200 uS/cm     | 3.00           |                |                |                      |                |
| 11/15/2003 | Unknown | pH        | 6.7       | 6 to 9        |                |                |                | 7 to 8.5             | 1.04           |
| 11/15/2003 | Unknown | TSS       | 150 mg/L  | 100 mg/L      | 1.50           |                |                |                      |                |
| 11/15/2003 | Unknown | Total Pb  | 130 ug/L  | 81.6 ug/L     | 1.60           | 210 ug/L       |                | 10 ug/L              | 13.00          |
| 11/15/2003 | Unknown | Total Zn  | 360 ug/L  | 117 ug/L      | 3.10           | 90 ug/L        | 4.00           | 20 ug/L              | 18.00          |
| 11/15/2003 | Unknown | Total Cu  | 220 ug/L  | 63.6 ug/L     | 3.50           | 4.8 ug/L       | 45.83          | 10 ug/L              | 22.00          |
| 11/15/2003 | Unknown | TOG       | 14 mg/L   | 15 mg/L       |                |                |                |                      |                |
| 11/1/2001  | Unknown | EC        | 510 uS/cm | 200 uS/cm     | 2.60           |                |                |                      |                |
| 11/1/2001  | Unknown | pH        | 7.3       | 6 to 9        |                |                |                | 7 to 8.5             |                |
| 11/1/2001  | Unknown | TSS       | 42 mg/L   | 100 mg/L      |                |                |                |                      |                |
| 11/1/2001  | Unknown | Total Pb  | 680 ug/L  | 81.6 ug/L     | 8.30           | 210 ug/L       | 3.24           | 10 ug/L              | 68.00          |
| 11/1/2001  | Unknown | Total Zn  | 1200 ug/L | 117 ug/L      | 10.30          | 90 ug/L        | 13.33          | 20 ug/L              | 60.00          |
| 11/1/2001  | Unknown | Total Cu  | 1200 ug/L | 63.6 ug/L     | 18.90          | 4.8 ug/L       | 250.00         | 10 ug/L              | 120.00         |
| 11/1/2001  | Unknown | TOG       | 24 mg/L   | 15 mg/L       | 1.60           |                |                |                      |                |

2. Data provided by Pick-n-Pull in 2013/14 516 B SWPPP

3. Sample taken by representative of ERF during a storm event at the North outfall

4. Storm event sample taken by representative of Loan Exchange at the North outfall

# ERF SAMPLING RESULTS:<sup>3</sup>

| DATE       | OUTFALL | POLLUTANT            | RESULT     | EPA BENCHMARK | TIMES<br>EXCEEDED | CTR (Salt) CMC | TIMES<br>EXCEEDED | BASIN PLAN<br>Table 3-6    | TIMES<br>EXCEEDED |
|------------|---------|----------------------|------------|---------------|-------------------|----------------|-------------------|----------------------------|-------------------|
| 12/15/2014 | North/2 | pH                   | 7.8        |               |                   |                |                   |                            |                   |
| 12/15/2014 | North   | COD                  | 360 mg/L   | 120 mg/L      | 3.00              |                |                   |                            |                   |
| 12/15/2014 | North   | Oil & Grease (total) | 11 mg/L    | 15 mg/L       |                   |                |                   |                            |                   |
| 12/15/2014 | North   | EC                   | 210 uS/cm  | 200 uS/cm     | 1.05              |                |                   |                            |                   |
| 12/15/2014 | North   | TSS                  | 460 mg/L   | 100 mg/L      | 4.60              |                |                   |                            |                   |
| 12/15/2014 | North   | Total Arsenic (As)   | 4.8 ug/L   | 168 ug/L      |                   | 69 ug/L        |                   |                            |                   |
| 12/15/2014 | North   | Total Cadmium (Cd)   | 4.1 ug/L   | 15.9 ug/L     |                   | 42 ug/L        |                   | 0.2 ug/L                   | 20.50             |
| 12/15/2014 | North   | Total Chromium (Cr)  | 34 ug/L    |               |                   |                |                   | 10 ug/L <sup>(SMELL)</sup> | 3.40              |
| 12/15/2014 | North   | Total Copper (Cu)    | 430 ug/L   | 63.6 ug/L     | 6.76              | 4.8 ug/L       | 89.58             | 10 ug/L                    | 43.00             |
| 12/15/2014 | North   | Total Lead (Pb)      | 310 ug/L   | 81.6 ug/L     | 3.79              | 210 ug/L       | 1.47              | 10 ug/L                    | 31.00             |
| 12/15/2014 | North   | Total Mercury (Hg)   | 0.12 ug/L  | 2.4 ug/L      |                   |                |                   | 0.1 ug/L                   |                   |
| 12/15/2014 | North   | Total Nickel (Ni)    | 43 ug/L    | 1417 ug/L     |                   | 74 ug/L        |                   | 2 ug/L                     | 21.50             |
| 12/15/2014 | North   | Total Silver (Ag)    | 2.9 ug/L   | 117 ug/L      |                   | 1.9 ug/L       | 1.52              |                            |                   |
| 12/11/2014 | North/2 | COD                  | 630 mg/L   | 120 mg/L      | 5.30              |                |                   |                            |                   |
| 12/11/2014 | North   | BOD (5day)           | 210 mg/L   | 30 mg/L       | 7.00              |                |                   |                            |                   |
| 12/11/2014 | North   | Oil & Grease (total) | 15 mg/L    | 15 mg/L       |                   |                |                   |                            |                   |
| 12/11/2014 | North   | EC                   | 180 uS/cm  | 200 uS/cm     |                   |                |                   |                            |                   |
| 12/11/2014 | North   | Ammonia as N         | ND         | 19 mg/L       |                   |                |                   |                            |                   |
| 12/11/2014 | North   | TSS                  | 1400 mg/L  | 100 mg/L      | 14.00             |                |                   |                            |                   |
| 12/11/2014 | North   | Total Arsenic (As)   | 6.6 ug/L   | 168 ug/L      |                   | 69 ug/L        |                   |                            |                   |
| 12/11/2014 | North   | Total Cadmium (Cd)   | 6.7 ug/L   | 15.9 ug/L     |                   | 42 ug/L        |                   | 0.2 ug/L                   | 33.50             |
| 12/11/2014 | North   | Total Chromium (Cr)  | 57 ug/L    |               |                   |                |                   | 10 ug/L <sup>(SMELL)</sup> |                   |
| 12/11/2014 | North   | Total Copper (Cu)    | 680 ug/L   | 63.6 ug/L     | 10.70             | 4.8 ug/L       | 141.67            | 10 ug/L                    | 68.00             |
| 12/11/2014 | North   | Total Iron (Fe)      | 58000 ug/L | 1000 ug/L     | 5.80              |                |                   |                            |                   |
| 12/11/2014 | North   | Total Lead (Pb)      | 430 ug/L   | 81.6 ug/L     | 5.30              | 210 ug/L       | 2.04              | 10 ug/L                    | 43.00             |
| 12/11/2014 | North   | Total Mercury (Hg)   | 0.21 ug/L  | 2.4 ug/L      |                   |                |                   | 0.1 ug/L                   | 2.10              |
| 12/11/2014 | North   | Total Nickel (Ni)    | 72 ug/L    | 1417 ug/L     |                   | 74 ug/L        |                   | 2 ug/L                     | 36.00             |
| 12/11/2014 | North   | Total Selenium (Se)  | 1.5 ug/L   | 238.5 ug/L    |                   | 290 ug/L       |                   |                            |                   |
| 12/11/2014 | North   | Total Silver (Ag)    | 6.3 ug/L   | 117 ug/L      |                   | 1.9 ug/L       | 3.30              |                            |                   |
| 12/3/2014  | North/2 | EC                   | 450 uS/cm  | 200 uS/cm     | 2.30              |                |                   |                            |                   |
| 12/3/2014  | North   | TSS                  | 390 mg/L   | 100 mg/L      | 3.90              |                |                   |                            |                   |
| 12/3/2014  | North   | Total Aluminum       | 42000 ug/L | 750 ug/L      | 56.00             |                |                   |                            |                   |
| 12/3/2014  | North   | Total Copper (Cu)    | 480 ug/L   | 63.6 ug/L     | 7.50              | 4.8 ug/L       | 100.00            | 10 ug/L                    | 48.00             |
| 12/3/2014  | North   | Total Iron (Fe)      | 39000 ug/L | 1000 ug/L     | 39.00             |                |                   |                            |                   |
| 12/3/2014  | North   | Total Lead (Pb)      | 380 ug/L   | 81.6 ug/L     | 4.70              | 210 ug/L       | 1.80              | 10 ug/L                    | 38.00             |
| 12/3/2014  | North   | Total Nickel (Ni)    | 45 ug/L    | 1417 ug/L     |                   | 74 ug/L        |                   | 2 ug/L                     | 22.50             |
| 12/3/2014  | North   | Total Zinc (Zn)      | 1200 ug/L  | 117 ug/L      | 10.30             | 90 ug/L        | 13.33             | 20 ug/L                    | 60.00             |

2. Data provided by Pick-n-Pull in 2013/14 516 B SWPPP

3. Sample taken by representative of ERF during a storm event at the North outfall

4. Storm event sample taken by representative of Loan Exchange at the North outfall

**LOAN EXCHANGE RESULTS:<sup>4</sup>**

| DATE      | OUTFALL | POLLUTANT            | RESULT      | EPA BENCHMARK | TIMES<br>EXCEEDED | CTR (Salt) CMC | TIMES<br>EXCEEDED | BASIN PLAN<br>Table 3-6 | TIMES<br>EXCEEDED |
|-----------|---------|----------------------|-------------|---------------|-------------------|----------------|-------------------|-------------------------|-------------------|
| 1/24/2008 | North/2 | Oil & Grease (total) | 79 mg/L     | 15 mg/L       | 5.3               |                |                   |                         |                   |
| 1/24/2008 | North   | EC                   | 280 uS/cm   | 200 uS/cm     | 1.4               |                |                   |                         |                   |
| 1/24/2008 | North   | TSS                  | 5400 mg/L   | 100 mg/L      | 54.0              |                |                   |                         |                   |
| 1/24/2008 | North   | Total Lead (Pb)      | 1600 ug/L   | 81.6 ug/L     | 19.6              | 210 ug/L       | 7.62              | 10ug/L                  | 160               |
| 1/24/2008 | North   | Total Iron (Fe)      | 150000 ug/L | 1000 ug/L     | 150.0             |                |                   |                         |                   |
| 1/24/2008 | North   | Total Aluminum       | 870 ug/L    | 750 ug/L      | 1.2               |                |                   |                         |                   |

2. Data provided by Pick-n-Pull in 2013/14 516 B SWPPP

3. Sample taken by representative of ERF during a storm event at the North outfall

4. Storm event sample taken by representative of Loan Exchange at the North outfall

### **Attachment 3: Alleged Dates of Pick-n-Pull's Violations, March 2010 to February 2015**

Days with Precipitation One Tenth of an Inch or Greater, as reported by NOAA's National Climatic Data Center, Fremont station. <http://www7.ncdc.noaa.gov/IPS/coop/coop.html>.

| <b>Date</b> | <b>Precipitation</b> |
|-------------|----------------------|
| 2-Mar-10    | 0.68                 |
| 3-Mar-10    | 0.49                 |
| 10-Mar-10   | 0.23                 |
| 12-Mar-10   | 0.18                 |
| 2-Apr-10    | 0.15                 |
| 4-Apr-10    | 0.38                 |
| 11-Apr-10   | 0.8                  |
| 12-Apr-10   | 0.53                 |
| 20-Apr-10   | 0.29                 |
| 27-Apr-10   | 0.13                 |
| 28-Apr-10   | 0.16                 |
| 10-May-10   | 0.12                 |
| 17-Oct-10   | 0.12                 |
| 23-Oct-10   | 0.1                  |
| 24-Oct-10   | 0.38                 |
| 30-Oct-10   | 0.26                 |
| 7-Nov-10    | 0.14                 |
| 19-Nov-10   | 0.14                 |
| 20-Nov-10   | 0.69                 |
| 21-Nov-10   | 0.15                 |
| 23-Nov-10   | 0.43                 |
| 27-Nov-10   | 0.49                 |
| 5-Dec-10    | 0.36                 |
| 17-Dec-10   | 0.31                 |
| 18-Dec-10   | 0.8                  |
| 19-Dec-10   | 0.43                 |
| 25-Dec-10   | 0.61                 |
| 28-Dec-10   | 1.29                 |
| 29-Dec-10   | 0.22                 |
| 1-Jan-11    | 0.34                 |
| 2-Jan-11    | 0.42                 |
| 30-Jan-11   | 0.25                 |
| 16-Feb-11   | 0.53                 |
| 17-Feb-11   | 0.71                 |
| 18-Feb-11   | 0.32                 |
| 19-Feb-11   | 0.11                 |

|           |      |
|-----------|------|
| 25-Feb-11 | 0.57 |
| 13-Mar-11 | 0.33 |
| 14-Mar-11 | 0.2  |
| 15-Mar-11 | 0.14 |
| 16-Mar-11 | 0.26 |
| 18-Mar-11 | 1.07 |
| 19-Mar-11 | 1.16 |
| 20-Mar-11 | 1.57 |
| 21-Mar-11 | 0.4  |
| 22-Mar-11 | 0.19 |
| 23-Mar-11 | 1.96 |
| 24-Mar-11 | 1.23 |
| 25-Mar-11 | 0.21 |
| 26-Mar-11 | 2.41 |
| 7-Apr-11  | 0.34 |
| 14-May-11 | 0.27 |
| 15-May-11 | 0.17 |
| 16-May-11 | 0.32 |
| 17-May-11 | 0.47 |
| 25-May-11 | 0.15 |
| 28-May-11 | 0.13 |
| 4-Jun-11  | 0.76 |
| 28-Jun-11 | 0.48 |
| 3-Oct-11  | 0.47 |
| 4-Oct-11  | 0.23 |
| 5-Oct-11  | 1.15 |
| 5-Nov-11  | 0.88 |
| 11-Nov-11 | 0.27 |
| 19-Nov-11 | 0.29 |
| 20-Nov-11 | 0.51 |
| 20-Jan-12 | 1.6  |
| 21-Jan-12 | 0.42 |
| 22-Jan-12 | 0.23 |
| 23-Jan-12 | 0.39 |
| 7-Feb-12  | 0.1  |
| 13-Feb-12 | 0.25 |
| 29-Feb-12 | 0.3  |
| 1-Mar-12  | 0.33 |
| 13-Mar-12 | 0.45 |
| 14-Mar-12 | 0.79 |
| 15-Mar-12 | 0.18 |
| 16-Mar-12 | 1.13 |
| 17-Mar-12 | 0.27 |



|           |      |
|-----------|------|
| 24-Mar-12 | 0.4  |
| 25-Mar-12 | 0.24 |
| 27-Mar-12 | 0.66 |
| 31-Mar-12 | 0.53 |
| 10-Apr-12 | 0.35 |
| 12-Apr-12 | 1.07 |
| 13-Apr-12 | 1.17 |
| 25-Apr-12 | 0.1  |
| 26-Apr-12 | 0.19 |
| 4-Jun-12  | 0.21 |
| 22-Oct-12 | 0.16 |
| 1-Nov-12  | 0.13 |
| 8-Nov-12  | 0.13 |
| 9-Nov-12  | 0.15 |
| 16-Nov-12 | 0.23 |
| 17-Nov-12 | 0.45 |
| 18-Nov-12 | 0.42 |
| 21-Nov-12 | 0.36 |
| 28-Nov-12 | 0.46 |
| 30-Nov-12 | 2.07 |
| 1-Dec-12  | 0.87 |
| 2-Dec-12  | 0.92 |
| 5-Dec-12  | 0.43 |
| 12-Dec-12 | 0.18 |
| 15-Dec-12 | 0.1  |
| 17-Dec-12 | 0.21 |
| 22-Dec-12 | 0.76 |
| 23-Dec-12 | 1.5  |
| 25-Dec-12 | 0.67 |
| 29-Dec-12 | 0.2  |
| 5-Jan-13  | 0.33 |
| 6-Jan-13  | 0.24 |
| 19-Feb-13 | 0.36 |
| 6-Mar-13  | 0.13 |
| 7-Mar-13  | 0.15 |
| 31-Mar-13 | 0.13 |
| 1-Apr-13  | 0.2  |
| 4-Apr-13  | 0.17 |
| 7-Apr-13  | 0.21 |
| 29-Oct-13 | 0.17 |
| 19-Nov-13 | 0.22 |
| 20-Nov-13 | 0.23 |
| 7-Dec-13  | 0.18 |

|           |      |
|-----------|------|
| 2-Feb-14  | 0.28 |
| 6-Feb-14  | 0.51 |
| 7-Feb-14  | 0.42 |
| 8-Feb-14  | 0.42 |
| 9-Feb-14  | 0.47 |
| 26-Feb-14 | 0.75 |
| 28-Feb-14 | 1.68 |
| 1-Mar-14  | 0.49 |
| 6-Mar-14  | 0.21 |
| 26-Mar-14 | 0.6  |
| 29-Mar-14 | 0.33 |
| 31-Mar-14 | 0.45 |
| 1-Apr-14  | 0.67 |
| 25-Apr-14 | 0.31 |
| 18-Sep-14 | 0.1  |
| 25-Sep-14 | 0.3  |
| 25-Oct-14 | 0.27 |
| 31-Oct-14 | 0.68 |
| 1-Nov-14  | 0.47 |
| 13-Nov-14 | 0.33 |
| 19-Nov-14 | 0.11 |
| 20-Nov-14 | 0.85 |
| 22-Nov-14 | 0.18 |
| 29-Nov-14 | 0.31 |
| 30-Nov-14 | 0.28 |
| 2-Dec-14  | 1.14 |
| 3-Dec-14  | 0.7  |
| 5-Dec-14  | 0.59 |
| 11-Dec-14 | 3.63 |
| 12-Dec-14 | 0.3  |
| 15-Dec-14 | 1.7  |
| 16-Dec-14 | 0.38 |
| 17-Dec-14 | 0.19 |
| 19-Dec-14 | 0.26 |
| 20-Dec-14 | 0.45 |
| 6-Feb-15  | 0.99 |
| 7-Feb-15  | 0.44 |
| 8-Feb-15  | 0.5  |
| 28-Feb-15 | 0.3  |